



PATENT APPLICATION  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Morris *et al.*

Serial No: 09/601,667

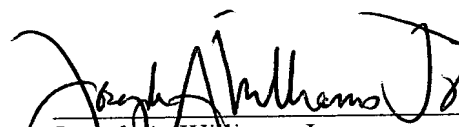
Filed: October 6, 2000

For: Recombinant Mistletoe Lectins

Group Art Unit: 1653

Examiner: S.W. Liu, Ph.D.

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Joseph A. Williams, Jr.,  
Registration No: 38,659  
Attorney for Applicants

APPLICANTS' RESPONSE TO A RESTRICTION REQUIREMENT

Commissioner for Patents  
Washington, D.C. 20231

Sir:

~~In a communication mailed February 11, 2003, the Patent Office set forth a restriction~~  
requirement, asserting that the subject matter of the claims relates to nine inventions "not so linked as  
to form a single general inventive concept under PCT Rule 13.1." The Applicants respectfully  
traverse.

The subject matter of all claims is linked by a single general inventive concept which is the  
unique mistletoe lectin polypeptide comprising the sequence of SEQ ID NO: 1 and SEQ ID NO: 4 or  
a fragment thereof, wherein Xaa at position 533 of SEQ ID NO: 1 and Xaa at position 534 of SEQ ID  
NO: 40 is phenylalanine and the subject matter in all claims arises from this single concept. For  
example, claims 46-48, 56-70, and 85-87 (designated Group I by the Examiner) relate to a method of  
recombinantly producing the unique mistletoe lectin polypeptide as described above, claims 85-87  
(designated Group VII by the Examiner) relate to a method of producing the unique mistletoe lectin  
polypeptide in a transgenic mistletoe plant, and claims 49-54 and 78-80 (designated Group II by the  
Examiner) relate to the unique polypeptides themselves and pharmaceutical compositions comprising  
the unique polypeptides. Claims 55 and 88 (designated Group III by the Examiner) relate to a method  
of producing a polynucleotide, including a mutagenesis step, which encodes for the unique mistletoe  
lectin polypeptide and claim 88 (designated Group VIII by the Examiner) relates to a method of  
preparing a polynucleotide encoding the unique mistletoe lectin polypeptide in a transgenic mistletoe

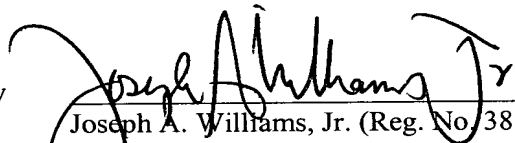
plant. Claims 71-77 (designated Group IV by the Examiner) relate to a pharmaceutical composition comprising the polynucleotides encoding the unique mistletoe lectin polypeptide as described above. Claim 81 (designated Group V by the Examiner) relates to a method of producing a medicament for treating uncontrolled cell growth using the unique mistletoe lectin polypeptide as described above and claims 82-84 (designated Group VI by the Examiner) relate to a method of producing a medicament for intensifying immune reactions without cytotoxic activity using the unique mistletoe lectin polypeptide. Claims 89 and 90 (designated Group VIII by the Examiner) relate to an *in vitro* method of producing the unique mistletoe lectin polypeptide described above by chemical modification. The subject matter of all claims is therefore linked by a single technical feature, the unique mistletoe lectin polypeptide comprising the sequence of SEQ ID NO: 1 and SEQ ID NO: 4 or a fragment thereof, wherein Xaa at position 533 of SEQ ID NO: 1 and Xaa at position 534 of SEQ ID NO: 40 is phenylalanine and this common link is undeniable. The special technical feature as required under PCT Rule 13.2, which defines a contribution over the prior art like Sweeney *et al. J. Mol. Biol.* 234:1279-1281 (1993), is therefore these amino acid sequences encoding the unique mistletoe lectin polypeptides.

The Applicants therefore submit that the restriction requirement is improper and respectfully request that it be withdrawn. However, in order to be fully responsive to the restriction requirement, the Applicants elect claims 49-54 and 78-80 (designated Group II by the Examiner) for continued prosecution.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN

By

  
Joseph A. Williams, Jr. (Reg. No. 38,659)  
6300 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6402  
(312) 474-6300

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